

HOUSE BILL 1251

E2

3lr2910

By: **Delegate Mireku-North**

Introduced and read first time: February 16, 2023

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Procedure – Sentencing – Primary Caretaker**

3 FOR the purpose of authorizing a defendant, on conviction of a certain crime, to file a
4 motion requesting that the court consider the defendant’s status as the primary
5 caretaker of a child or vulnerable adult in determining the sentence for the crime;
6 establishing procedures for filing a motion, granting a motion, sentencing, and
7 modifying a sentence under this Act; and generally relating to sentencing.

8 BY adding to

9 Article – Criminal Procedure

10 Section 6–237

11 Annotated Code of Maryland

12 (2018 Replacement Volume and 2022 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
14 That the Laws of Maryland read as follows:

15 **Article – Criminal Procedure**

16 **6–237.**

17 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (2) “NONVIOLENT CRIME” MEANS A CRIME THAT:

20 (I) DOES NOT INVOLVE THE USE, ATTEMPTED USE, OR
21 THREATENED USE OF PHYSICAL FORCE OR A DEADLY WEAPON AGAINST ANOTHER
22 PERSON;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (II) IS NOT BURGLARY, EXTORTION, ARSON, OR KIDNAPPING;

2 (III) DOES NOT INVOLVE THE USE OF EXPLOSIVES; AND

3 (IV) DOES NOT INVOLVE CONDUCT THAT PRESENTS A SERIOUS
4 RISK OF PHYSICAL INJURY TO ANOTHER.

5 (3) "PRIMARY CARETAKER" MEANS:

6 (I) A PERSON WHO HAS ASSUMED RESPONSIBILITY FOR A
7 MINOR CHILD'S OR VULNERABLE ADULT'S HOUSING, HEALTH, FINANCIAL SUPPORT,
8 EDUCATION, FAMILY TIES, OR SAFETY; OR

9 (II) A WOMAN WHO HAS GIVEN BIRTH TO A CHILD AFTER OR
10 WHILE AWAITING HER SENTENCING HEARING AND WHO EXPRESSES A WILLINGNESS
11 TO ASSUME RESPONSIBILITY FOR THE HOUSING, HEALTH, AND SAFETY OF THE
12 CHILD.

13 (4) "VULNERABLE ADULT" HAS THE MEANING STATED IN § 3-604 OF
14 THE CRIMINAL LAW ARTICLE.

15 (B) (1) ON CONVICTION OF A NONVIOLENT CRIME, A DEFENDANT MAY
16 FILE A MOTION REQUESTING THE COURT TO CONSIDER THE DEFENDANT'S STATUS
17 AS A PRIMARY CARETAKER IN DETERMINING THE SENTENCE FOR THE CRIME.

18 (2) A MOTION FILED UNDER PARAGRAPH (1) OF THIS SUBSECTION
19 SHALL:

20 (I) BE SUPPORTED BY:

21 1. AN AFFIDAVIT;

22 2. A LETTER OF GUARDIANSHIP RECEIVED FROM THE
23 PROBATE DIVISION OF ANY STATE, THE DISTRICT OF COLUMBIA, OR A U.S.
24 TERRITORY; OR

25 3. A BIRTH CERTIFICATE OR VERIFICATION OF BIRTH
26 PROVIDED BY A MEDICAL PROVIDER; AND

27 (II) BE FILED WITHIN 10 DAYS AFTER THE ENTRY OF JUDGMENT
28 OF CONVICTION.

29 (3) (I) ON RECEIPT OF A MOTION FILED UNDER THIS SUBSECTION,

1 THE COURT SHALL MAKE WRITTEN FINDINGS CONCERNING THE DEFENDANT'S
2 PRIMARY CARETAKER STATUS AND THE AVAILABILITY OF APPROPRIATE
3 SENTENCING ALTERNATIVES THAT DO NOT INVOLVE IMPRISONMENT.

4 (II) THE COURT MAY NOT IMPOSE A SENTENCE OF
5 IMPRISONMENT WITHOUT FIRST MAKING THE WRITTEN FINDINGS.

6 (4) A PARENT WHO, IN THE BEST INTEREST OF THE PARENT'S CHILD,
7 HAS ARRANGED FOR THE TEMPORARY CARE OF THE CHILD IN THE HOME OF A
8 RELATIVE OR ANOTHER RESPONSIBLE ADULT MAY NOT FOR THAT REASON BE
9 EXCLUDED FROM BEING CONSIDERED A PRIMARY CARETAKER.

10 (C) ON A DETERMINATION THAT A DEFENDANT CONVICTED OF A
11 NONVIOLENT CRIME IS A PRIMARY CARETAKER AND THE IDENTIFICATION OF AN
12 AVAILABLE, APPROPRIATE SENTENCE THAT DOES NOT INVOLVE IMPRISONMENT,
13 THE COURT MAY IMPOSE SUCH A SENTENCE WITH CONDITIONS, SET FORTH IN
14 WRITING, THAT EMPHASIZE COMMUNITY REHABILITATION AND FAMILY UNITY AND
15 SUPPORT, WHICH MAY INCLUDE:

- 16 (1) DRUG AND ALCOHOL TREATMENT;
- 17 (2) DOMESTIC VIOLENCE EDUCATION AND PREVENTION;
- 18 (3) PHYSICAL AND SEXUAL ABUSE COUNSELING;
- 19 (4) ANGER MANAGEMENT;
- 20 (5) VOCATIONAL AND EDUCATIONAL SERVICES;
- 21 (6) JOB TRAINING AND PLACEMENT;
- 22 (7) AFFORDABLE AND SAFE HOUSING ASSISTANCE;
- 23 (8) FINANCIAL LITERACY;
- 24 (9) PARENTING CLASSES;
- 25 (10) FAMILY AND INDIVIDUAL COUNSELING; OR
- 26 (11) FAMILY CASE MANAGEMENT SERVICES.

27 (D) (1) THE COURT MAY REQUIRE A PERSON SENTENCED UNDER THIS
28 SECTION TO APPEAR IN COURT AT ANY TIME DURING THE PERSON'S SENTENCE TO

1 EVALUATE THE PERSON'S PROGRESS IN TREATMENT OR REHABILITATION, OR TO
2 DETERMINE WHETHER THE PERSON HAS VIOLATED A CONDITION OF THE SENTENCE.

3 (2) AT AN APPEARANCE IN COURT UNDER PARAGRAPH (1) OF THIS
4 SUBSECTION, THE COURT MAY:

5 (I) MODIFY THE CONDITIONS OF THE SENTENCE IMPOSED;

6 (II) DECREASE THE DURATION OF THE SENTENCE IMPOSED
7 BASED ON THE PERSON'S SUCCESSFUL ADVANCEMENT; OR

8 (III) SANCTION THE PERSON FOR EACH DETECTED VIOLATION
9 OF A CONDITION OF THE SENTENCE IMPOSED, INCLUDING REQUIRING THE PERSON
10 TO SERVE A TERM OF IMPRISONMENT WITHIN THE RANGE FOR THE CRIME OF WHICH
11 THE PERSON WAS ORIGINALLY CONVICTED, NOTWITHSTANDING THE
12 DETERMINATION MADE UNDER THIS SECTION THAT THE PERSON IS A PRIMARY
13 CARETAKER.

14 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 October 1, 2023.